

AGENDA
Board of Adjustment, District 2
March 3, 2010, 6 P.M.
Board of Supervisors Conference Room
1415 Melody Lane, Building G
Bisbee, Arizona 85603

6:00 P.M. Call to Order

Roll Call (Introduce Board members, and explain quorum)

(Also explain procedure for public hearing, i.e., after Planning Director's Report, Applicant will be allowed 10 minutes; other persons will each have 5 minutes to speak and Applicant can have 5 minutes for rebuttal at end, if appropriate.)

Determination of Quorum

Approval of Previous Minutes

NEW BUSINESS

Item 1 - Introduce Docket and advise public who the applicants are.

Public Hearing, BA2-10-01: In order to allow an existing business to remain as it currently exists, the Applicant seeks the following Variances and Waivers to site development standards as required in a General Business District: 1) a Variance to Section 1203.02 of the Cochise County Zoning Regulations, which requires a 40-foot setback from abutting residentially-zoned properties (the business is 35 feet from the Northern property line, 4 feet from the South, and 15 feet from the West); 2) a Waiver from Section 1203.05, which requires a 6-foot high screen wall along abutting residentially-zoned properties (to the North, South and West); 3) a Waiver from Section 1804.07.C, which requires driveways, parking and loading areas for non-residential uses in a Category B Growth Area to be chip-sealed (the Applicant seeks to have the existing dirt/gravel surface to remain); 4) a Variance from Section 1804.06.B, which requires parking areas with 58 spaces to be separated from residentially-zoned properties by 40 feet or more (existing parking is 20 feet from Southern property line); and 5), a Variance to Section 1804.06.F.3, which requires 24-foot driveways with 24 feet of clear backing space in parking areas (existing development has 20-foot drive aisles with 20 feet of backing space). The subject parcel (Parcel # 102-31-084B) is located at 1948 S. Naco Highway in Bisbee, AZ.

Applicant: David Rogers of the La Ramada Bar and Restaurant.

- Call for PLANNING DIRECTOR'S PRESENTATION
- Declare PUBLIC HEARING OPEN
 - 1) Call for APPLICANT'S STATEMENT
 - 2) Call for COMMENT FROM OTHER PERSONS (either in favor or against)
 - 3) Call for APPLICANT'S REBUTTAL (if appropriate)
- Declare PUBLIC HEARING CLOSED
- Call for BOARD DISCUSSION (may ask questions of applicant)

- Call for PLANNING DIRECTOR'S SUMMARY AND RECOMMENDATION
- Call for MOTION
- Call for DISCUSSION OF MOTION
- Call for QUESTION
- ANNOUNCE ACTION TAKEN (with Findings of Fact)

Item 2 – Election of Officers

Call for Planning Director's Report

Call to the Public

ADJOURNMENT



COCHISE COUNTY PLANNING DEPARTMENT

1415 Melody Lane, Bisbee, Arizona 85603

(520) 432-9240

Fax 432-9278

DRAFT MINUTES

TO: Board of Adjustment, District 2

FROM: Debra Meyer, Secretary

SUBJECT: Minutes of the Regular Meeting of August 5, 2009

DATE: August 19, 2009

MEMBERS PRESENT

Gerry Eberwein, Chairman
Albert Young, Vice-Chairman
Betty Piper, Member

STAFF PRESENT

Susana Montana, Planning Manager
Dora Flores, Commercial Permit Coordinator

OTHERS PRESENT: (See attached sheet)

These minutes for the BA2 meeting held on August 5, 2009 are complete only when accompanied by the memorandum for that meeting.

Chairman Eberwein called the meeting to order at 6:00 PM at the Cochise County Board of Supervisors' large conference room in Bisbee, Arizona. Mr. Eberwein followed by calling the roll and a quorum was established with the presence of all three Board Members.

Mr. Eberwein followed by offering an explanation of the procedures for the meeting.

Mr. Eberwein asked if there were any additions or corrections to the minutes of the June 3, 2009 meeting. As there were not amendments to the draft minutes, Mr. Young made a motion to accept the minutes as presented. Ms. Piper seconded and the motion passed (2 – 0), Chair Eberwein abstained.

Mr. Eberwein asked if there were any additions or corrections to the minutes of the March 4, 2009 meeting. As there were not amendments to the draft minutes, Mr. Young made a motion to accept the minutes as presented. Ms. Piper seconded and the motion passed (2 – 0) Chair Eberwein abstained.

NEW BUSINESS

Mr. Ebrwein explained that the election of officers had been done at a previous meeting.

Docket BA2-09-04: Commercial Permit Coordinator Dora Flores presented the docket for a Variance from Section 704.04 of the Cochise County Zoning Regulations which requires that all principal and accessory structures be set back no less than 20 feet from all property lines. The Applicant seeks to construct a 104 square foot deck, awning and ramp 12 feet from the Southern property line. The subject parcel (Parcel No. 102-39-130) is located at 2252 S Bowers Street in Bisbee, AZ. Ms. Flores presented photos and maps of the property and surrounding areas. She further stated that staff had received 2 letters of support and 1 letter in opposition.

Mr. Eberwein declared the public hearing open.

The Applicant Abe Bland of CW Products stated they need wheelchair accessibility to the building and that is why they are asking for the variance.

As no other members of the public wished to speak on the Docket, Chairman Eberwein declared the public hearing closed and asked for staff's recommendation.

Staff recommended approval, based on the factors in favor. Ms. Piper moved that the Variance be granted as recommended by staff, citing the factors in favor of approval as the findings of fact. Mr. Young seconded the motion, and it passed unanimously (3 – 0).

The meeting was adjourned at approximately 6:21 P.M.

Board of Adjustment, District 2

Sign in Sheet

DATE August 5, 2009

PLEASE PRINT

NAME	ADDRESS & EMAIL ADDRESS	PHONE #	ITEM #	Wish to SPEAK?
1.	PITTSVILLE			
JESUS L YANER	35 IRVIN AVE	805-9424		✓
2.	PITTSVILLE			
GLORIA V. YANER	35 IRVIN AVE	805-9424		
3.	4343 E Illinois			
Marilyn Bland	Abedeck@aol.com	870-7809		
4.	4343 E Illinois			
CLW-Products Inc Abe Bland	Abedeck@aol.com	870-5718		
5.				
6.				
7.				
8.				
9.				
10.				
11.				
12.				



COCHISE COUNTY PLANNING DEPARTMENT

1415 Melody Lane, Bisbee, Arizona 85603

(520) 432-9240

Fax 432-9278

Benny Young, Director

MEMORANDUM

TO: Cochise County Board of Adjustment, District 2
FROM: Keith Dennis, Planner II
For: Benny Young, Planning Director
SUBJECT: Docket BA2-10-01 (Rogers)
DATE: February 18, 2010, for the March 3, 2010 Meeting

APPLICATION FOR A VARIANCE

In order to allow an existing business (La Ramada Bar and Restaurant) to remain as it currently exists, the Applicant seeks the following Variances and Waivers to site development standards as required in a General Business District:

1. A Variance to Section 1203.02 of the Cochise County Zoning Regulations, which requires a 40-foot setback from abutting residentially-zoned properties (the business is 35 feet from the Northern property line, 4 feet from the South, and 15 feet from the West);
2. A Waiver from Section 1203.05, which requires a 6-foot high screen wall along abutting residentially-zoned properties (to the North, South and West);
3. A Waiver from Section 1804.07.C, which requires driveways, parking and loading areas for non-residential uses in a Category B Growth Area to be chip-sealed (the Applicant seeks to have the existing dirt/gravel surface to remain);
4. A Variance from Section 1804.06.B, which requires parking areas with 58 spaces to be separated from residentially-zoned properties by 40 feet or more (existing parking is 20 feet from Southern property line); and
5. A Variance to Section 1804.06.F.3, which requires 24-foot driveways with 24 feet of clear backing space in parking areas (existing development has 20-foot drive aisles with 20 feet of backing space).

The subject parcel (Parcels # 102-31-083 and 084B) are located at 1948 S. Naco Highway in Bisbee, AZ. The Applicant is David Rogers of the La Ramada Bar and Restaurant.

I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING USES

Size: 90,477 square feet (2.07 acres)
Zoning: General Business
Growth Area: Category B Community Growth Area

Plan Designation: DEV – Developing

Area Plan: None Applicable

Existing Uses: Bar/Restaurant

Proposed Uses: Re-establishment of the dining area occupancy of the existing business

Surrounding Zoning

Relation to Subject Parcel	Zoning District	Use of Property
North	General Business	Single Family Residential
South	TR-18	Undeveloped Land and Single Family Residential
East	TR-18	City of Bisbee (Naco Highway), Undeveloped Land
West	TR-18	Single Family Residential, Undeveloped Land

II. PARCEL HISTORY

1961 – La Ramada Lounge and Steakhouse opens. The business operates on two parcels, 083 and 084. Parcel 084 was split into Parcels 084A and B in 2006. Parcel 084B is where the business operates. Parcel 083 is the driveway and parking area for the business.

1975 – Cochise County establishes Zoning Districts. Parcel 083 is zoned GB, and due to County error, parcel 084 (where the main part of the business operates) is zoned TR-18. This residential zoning designation was probably due to the presence of the dwelling unit on the Eastern half of the property and the desire not to designate one parcel with two zoning Districts. With the TR-18 zoning designation, the restaurant and bar became a legal nonconforming use.

1996 – Restaurant ceases operation, but a doughnut shop is established in the unused kitchen, thus continuing the use through 1999.



Aerial view of the La Ramada business, which uses Parcels 083 and 084B (now Zoned GB).

1999 to 2001 – Kitchen and dining area cease operation altogether; discontinuation for more than 12 consecutive months results in the use losing its legal-nonconforming status.

2001 to present – The bar portion of the business never ceased to operate and continued to operate as a legal-nonconforming use in a TR District. The kitchen has been in use since this time as well, serving bar patrons. The restaurant dining area was not in use during this time and the dining area occupancy could not be re-established without a rezoning, which occurred in late 2009 (see below).

2005 – Violation for building without a permit.

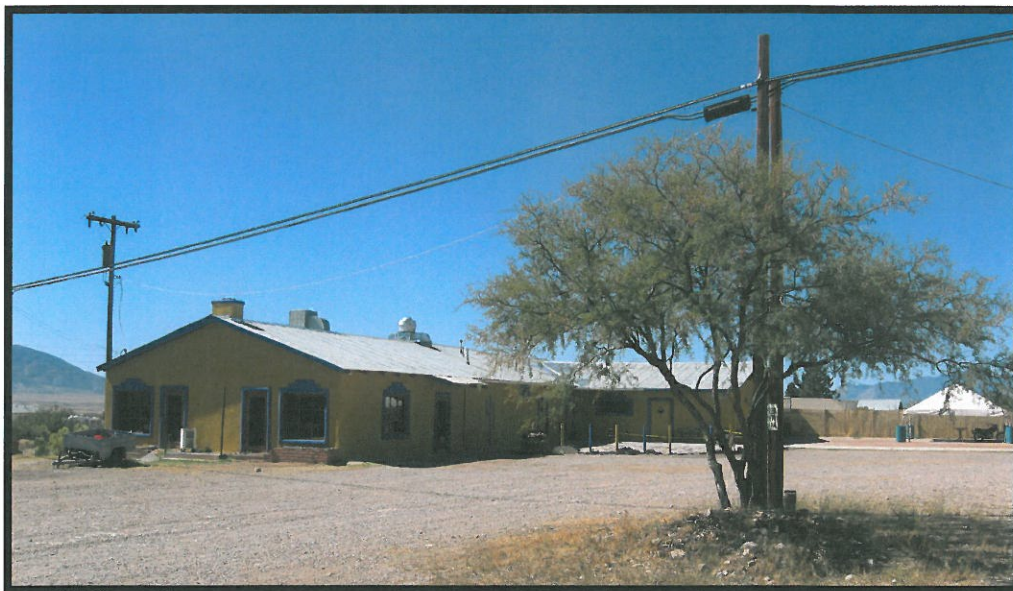
2006 – Parcel 084 split into two parcels, 084A and 084B, with the bar/restaurant remaining on the Western half (084B).

2007 – Violation for building without a permit. Violation resolved through application for permit to remodel the restaurant portion of the business.

2009 – On December 15, 2009, the Board of Supervisors voted unanimously (3 – 0) to rezone Parcel 084B to General Business, such that the bar, kitchen, and restaurant dining area on that parcel are now permitted uses.

III. PROJECT DESCRIPTION

As discussed above, the property owners seek to re-establish the restaurant land use on the property. Since Parcel 084B was rezoned to General Business in 2009, the existing and proposed uses on the property are all permitted uses. However, the business is deficient with regard to a number of applicable site development standards as discussed at the beginning of this Memo. With respect to site development standards, the Applicant seeks to allow the business to remain in its current condition. On both parcels.



Southwest view of the La Ramada Bar and Restaurant. The dining area portion of the restaurant is at left. The foreground is a driveway/parking area.

IV. ANALYSIS OF IMPACTS

The requested Variances and Waivers are described below. La Ramada has been at this location and configuration for 49 continuous years and is a fixture in the neighborhood and the larger community. Because of this, and because of the minimal complaints from neighbors (one) during the rezoning process, and due to the lack of response received from area residents for the present Docket (See Section V, below), staff considers the impacts of the existing and proposed land uses to be minimal. To the extent that these deficiencies have had any discernable off-site impacts, these are considered to be accepted "facts on the ground" in the neighborhood, understood and accepted by neighbors.

For a more visual description of the requested Variances/Waivers under discussion, see the attached site plan, which includes markups from the County commercial permit staff calling out the deficiencies.

Setbacks

Section 1203.02 of the Zoning Regulations requires a 40-foot setback from adjacent residentially-zoned properties. The structure is 35 feet from the Northern property line, 4 feet from the South, and 15 feet from the West property line (see attached site plan).

As can be seen from the aerial photo on page 2 of this Memo, the land immediately North and South is undeveloped at this time; an unused County-owned alleyway runs along the Western property boundary, and the bar is approximately 150 feet East of the residential structure on the neighboring parcel. The structure is approximately 120 feet from the nearest mobile home on the parcel to the Southwest.

Staff does not consider the existing building setbacks to cause significant off-site impacts, and the long presence of the building in its current location is by now a fixture of the built environment.



Looking South along the Western property line. Although not a County-approved screening device, the existing wicker fence does provide some degree of screening along the West side of the property.

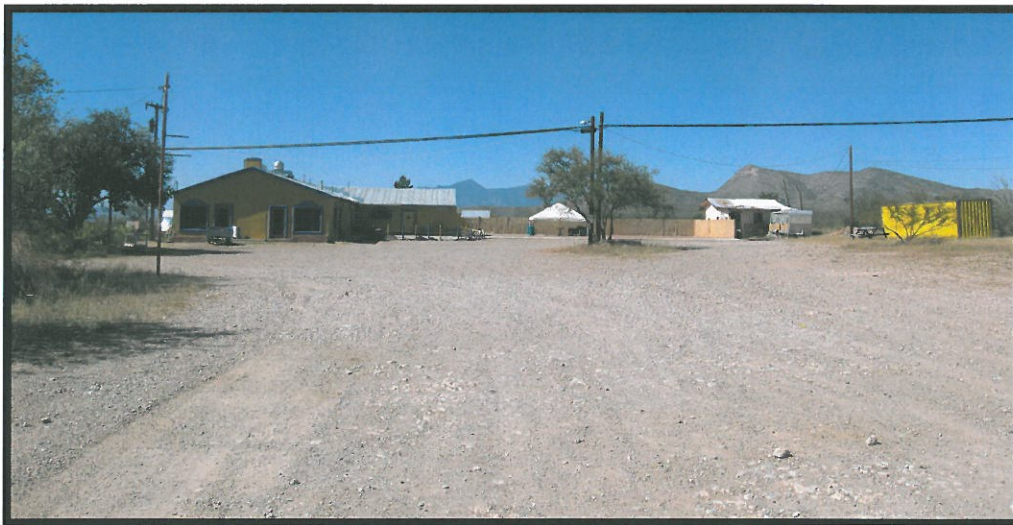
Screening

The Applicant requests a Waiver from Section 1203.05, which requires a 6-foot high screen wall along abutting residentially-zoned properties (to the North, South and West). The photo above illustrates the existing screening device along the West side. The Applicant requests that this be considered by the Board as an acceptable screening method, and that the required screening along the North and South sides of the business be waived.

If the Board grants the Waiver, the most obvious off-site impacts would be traffic noise and headlight glare, particularly along the South side of the property, along which can be found one apartment dwelling. However, such impacts are an established characteristic of the area and have been for 49 years.

Parking Areas

The Applicant's request to allow the site to remain as it exists means that three Variances and Waivers to parking area requirements be obtained. These are: 1) the Category B Growth Area requirement for chip-sealed surfaces (1804.07.C); 2) the requirement that parking areas with 58 spaces be set at least 40 feet back from residential Districts (1804.06.B – the existing parking area is 20 feet from the TR-36 property to the South); and 3) that driveways and backing spaces for parking areas be at least 24 feet across (1804.06.F.3 – these are each 20 feet currently). See the attached site plan for more detail.



Westward view of the La Ramada business, showing the existing driveway and parking area (parking spaces at right).

Allowing the existing 20-foot driveway, parking area setback and parking area backing space would not cause any adverse off-site impacts above and beyond existing conditions. Dirt/gravel parking areas and driveways can produce some amount of blowing dust during high wind periods; requiring a chip-seal surface would mitigate such impacts. However, the business has not been subject to any dust-related complaints during its 49-year operational history.

V. PUBLIC COMMENT

The Department mailed notices to neighboring property owners within 300 feet. Staff posted the property on February 16, 2010 and published a legal notice in the *San Pedro Valley News-Sun* on February 11, 2010. To date, the Department has received no support for nor opposition to the request. During the Rezoning process for the property, Staff did receive one letter from a neighbor opposing that Docket, but the complaint was focused on bar patrons rather than land use issues more pertinent to the present request.

VI. SUMMARY AND CONCLUSION

Factors in Favor of Allowing the Variance

1. Granting the request would legitimize the site layout of a business which has served the community for 49 continuous years.
2. Staff has received no complaints about the business, or about any off-site impacts resulting from the way it is developed, from neighbors for this Docket.

Factors Against Approval

None Apparent.

VII. RECOMMENDATIONS

Based on the factors in favor of approval, staff recommends approval of each of the five requested Variances/Waivers.

Sample Motion: Mr. Chairman, I move to approve Docket BA2-10-01, granting the Waivers and Variances as requested by the Applicant and as recommended by staff, with the factors in favor of approval listed in the staff Memorandum as findings of fact.

VIII. ATTACHMENTS

Variance Application
Location/Surrounding Zoning Map
Site Plan



COCHISE COUNTY PLANNING DEPARTMENT

1415 Melody Lane, Bisbee, Arizona 85603

(520) 432-9240

Fax 432-9278

APPLICATION FOR VARIANCE

DESIRING A VARIANCE FROM THE TERMS OF THE COCHISE COUNTY ZONING REGULATIONS:

TO THE HONORABLE BOARD OF ADJUSTMENT, DISTRICT 2

I (we), the undersigned, hereby petition the Cochise County Board of Adjustment, District 2 to grant a variance from the terms of the Cochise County Zoning Regulations as follows:

(Note: Complete all the following items. If necessary, attach additional sheets.)

1. Parcel Number: 102-31-084B/083
2. Address of parcel: 1948 S. NACO HWY
3. Area of Parcel (to nearest tenth of an acre): _____
4. Zoning District designation of Parcel: DB-Z-09-07
5. Describe existing uses of the parcel and the size and location of existing structures and buildings on it. SINCE 1961 BAR & RESTAURANT
6. Describe all proposed uses or structures, which are to be placed on the property. NO EXTRA STRUCTURES PLANNED AT THIS TIME ONLY EXISTING FOOTPRINT

7. State the specific nature of the variance or variances sought, identifying the applicable Section or Sections of the Cochise County Zoning Regulations you seek to vary.

PAVED PARKING AREA & DRIVEWAY
& SCREENING

8. A variance may be granted only when, due to any peculiar situation surrounding a condition of a specific piece of property, including unusual geographic or topographic conditions, strict application of the Zoning Regulations would result in an unnecessary hardship to the property owner. In granting variances, however, the general intent & purpose of the Zoning Regulations will be preserved (see attached Section 2103.02 on variances). Describe the reasons for requesting the variance and attach any documents necessary to demonstrate compliance with the provisions cited above.

SINCE 1961 THIS BUILDING HAS BEEN USED
AS A BAR / RESTAURANT / BALLROOM
PRIOR TO ANY REQUIREMENTS FOR PAVING
OR SCREENING PAVING & SCREENING

SUCH A HUGE AREA, WOULD BE A FINANCIAL
IMPOSSIBILITY & NOT BE IN THE INTEREST

9. State why the variance would not cause injury to or impair the rights of surrounding property owners. Identify conditions you propose, if any, to minimize the impact on surrounding properties. It shall be the responsibility of the Applicant to submit any studies and/or data necessary to demonstrate the effectiveness of the alternative conditions.

OF HELPING SMALL BUSINESS IN COCHISE COUNTY

I DO NOT HAVE ANY ALTERNATIVES THAT
WOULD BE COST EFFECTIVE NOR DO I BELIEVE
THIS WOULD CAUSE ANY CHANGE TO
SURROUNDING PROPERTIES.

10. List the name and address of all owners of the Parcel(s) for which the variance is sought. If the applicant is not the property owner, please attach a signed letter from the property owner authorizing the variance(s) sought.

PROPERTY OWNER

MAIL ADDRESS


LORENA ROGERS 1598 W MULEDEER:
BISBEE 85603

The undersigned hereby certifies and declares that to the best of his/her knowledge and belief the data submitted on and attached to this application for a variance from the terms of the Cochise County Zoning Regulations are true and correct.

SIGNATURE OF PETITIONER

ADDRESS

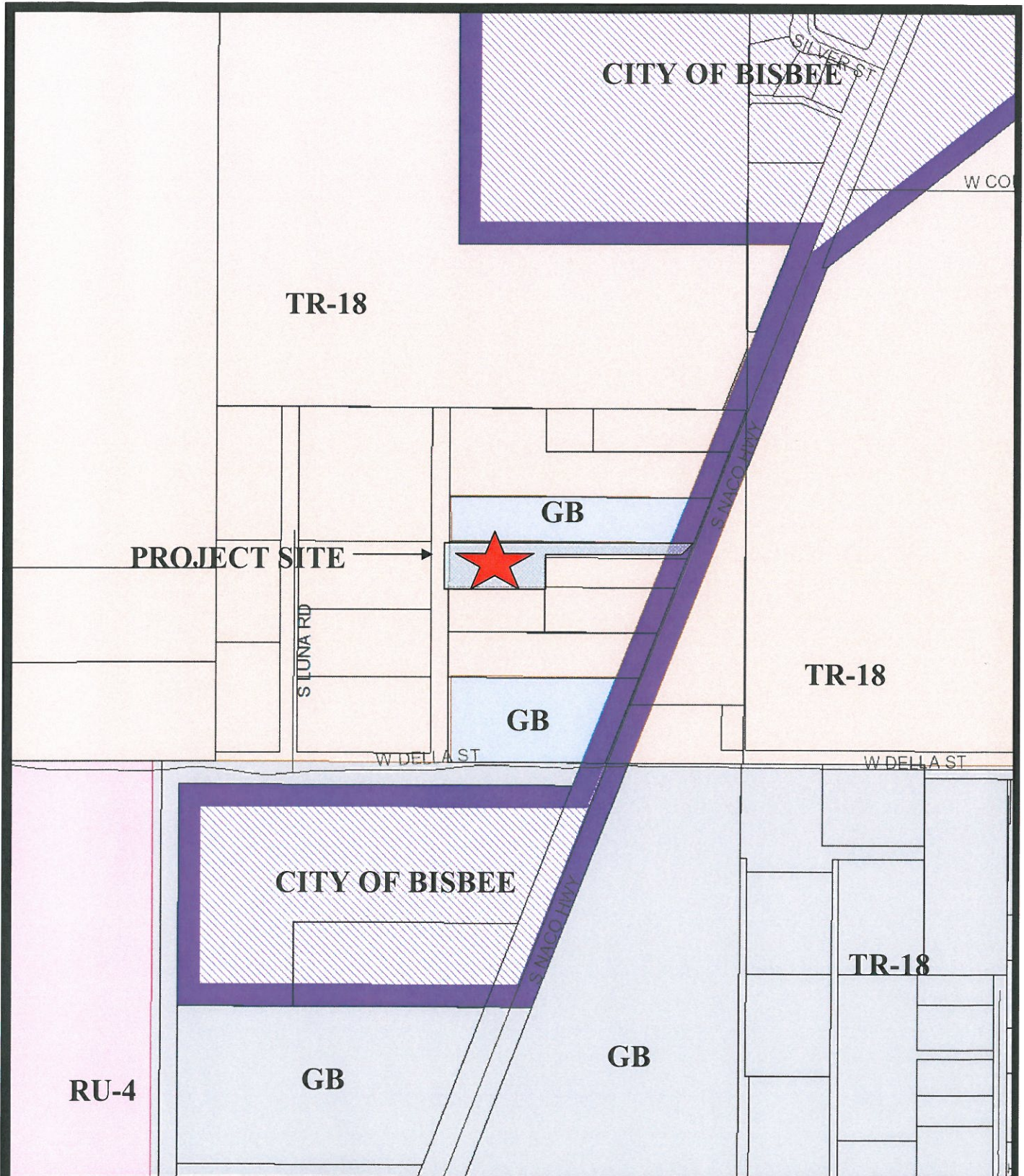
DATE

 1598 W. MULEDEER ST 1/19/10
BISBEE 85603

APPLICANT'S PHONE NUMBER 520 895 8892

APPLICANT'S EMAIL ADDRESS _____

Note: Each application shall be accompanied by an accurate site plan showing the parcel of land and the existing and proposed structures and buildings on it, and shall be accompanied by a check in the amount of three hundred dollars (\$300) payable to the Cochise County Treasurer. Return to the Cochise County Planning Department, 1415 Melody Lane, Building E, Bisbee, Arizona, 85603.



BA2-10-01 (Rogers)

**Location/Zoning
Map**

This map is a product of the
Cochise County GIS



0' 1" = 305'

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